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*Attorneys for Defendants  
YouTube, LLC, Google LLC,  
and Alphabet Inc.*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MERCOLA.COM, LLC and Dr. JOSEPH  
MERCOLA,

Plaintiffs,

v.

YOUTUBE, LLC, GOOGLE LLC, and  
ALPHABET INC.,

Defendants.

Case No. 3:22-cv-05567-LB

**DECLARATION OF JOSHUA H.  
LERNER IN SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS**

Hearing Date: May 18, 2023

Courtroom: Courtroom B

Time: 9:30 a.m.

Judge: Hon. Laurel Beeler

1 I, Joshua H. Lerner, declare and state as follows:

2 I am an attorney licensed to practice law in California and am one of the counsel of  
3 record for YouTube, LLC, Google LLC, and Alphabet Inc. (“Defendants”) in this action. I submit  
4 this Declaration in support of Defendants’ motion to dismiss.

5 3. **Exhibit A** is a true and accurate copy of YouTube’s Terms of Service, in effect  
6 from March 17, 2021 to January 4, 2022, as downloaded on January 27, 2023 from YouTube’s  
7 website at <https://www.youtube.com/t/terms?archive=20210317>.

8 4. **Exhibit B** is a true and accurate copy of YouTube’s blog post announcing its  
9 vaccine misinformation policy, as downloaded on February 9, 2023 from YouTube’s website at  
10 <https://blog.youtube/news-and-events/managing-harmful-vaccine-content-youtube/>.

11 5. **Exhibit C** is a true and accurate copy of YouTube’s vaccine misinformation policy,  
12 as downloaded on January 27, 2023 from YouTube’s website at  
13 <https://support.google.com/youtube/answer/11161123?hl=en>.

14 6. **Exhibit D** is a true and accurate copy of YouTube’s “strikes basics” page, as  
15 downloaded on January 27, 2023 from YouTube’s website at  
16 <https://support.google.com/youtube/answer/2802032?hl=en>.

17 7. **Exhibit E** is a true and accurate copy of YouTube’s misinformation policies, as  
18 downloaded on January 27, 2023 from YouTube’s website at  
19 <https://support.google.com/youtube/answer/10834785?hl=en#zippy=>.

20 8. **Exhibit F** is a true and accurate copy of YouTube’s COVID-19 medical  
21 misinformation policy, as downloaded on February 3, 2023 from YouTube’s website at  
22 <https://support.google.com/youtube/answer/9891785?hl=en>.

23 9. **Exhibit G** is a true and accurate copy of a Washington Post article titled “YouTube  
24 is banning prominent anti-vaccine activists and blocking all anti-vaccine content” (cited in  
25 Plaintiffs’ complaint at paragraphs 19, 21-22), as downloaded on February 3, 2023 from  
26 YouTube’s website at [https://www.washingtonpost.com/technology/2021/09/29/youtube-ban-](https://www.washingtonpost.com/technology/2021/09/29/youtube-ban-joseph-mercola/)  
27 [joseph-mercola/](https://www.washingtonpost.com/technology/2021/09/29/youtube-ban-joseph-mercola/).

1 I declare under penalty of perjury that the foregoing is true and correct. This declaration  
2 was executed on February 10, 2023 in San Francisco, California.

3  
4 Dated: February 10, 2023

/s/ Joshua H. Lerner  
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***Attorneys for Defendants***  
***YouTube, LLC, Google LLC, and***  
***Alphabet Inc.***

**CERTIFICATE OF SERVICE**

I hereby certify that on February 10, 2023, I electronically filed the above document with the Clerk of the Court using CM/ECF which will send electronic notification of such filing to all registered counsel.

Dated: February 10, 2023

By: /s/ Joshua H. Lerner  
JOSHUA H. LERNER